


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
CENTRAL DIVISION

FILED  
JAN 27 2006  
  
CLERK

\*\*\*\*\*

ERNEST DOE, a minor, by and through  
DENITA DOE, his mother and next friend,

Plaintiff,

-vs-

TODDY COUNTY SCHOOL DISTRICT,  
RICHARD BORDEAUX,  
RANDY HER MANY HORSES,  
MARLON LENEAGH,  
CHARLES MOE,  
STEVE HER MANY HORSES, and  
TROY HEINERT,

Defendants.

CIV. 05-3043

ORDER AND OPINION

\*\*\*\*\*

Plaintiff filed a motion for a preliminary injunction, Doc. 5, seeking an order to enjoin the defendants from continuing the suspension of the plaintiff from classes and activities at the Todd County Middle School. Defendants filed a response, Doc. 14, opposing the motion for preliminary injunction.

A hearing on the motion was scheduled for January 20, 2006. Present for the hearing were the plaintiff Ernest Doe and his attorney, Dana Hanna, defendant Richard Bordeaux, Superintendent of the Todd County School District, and defendants' attorneys, Thomas Harmon and Judith K. Grunewaldt. In discussions between the Court and counsel for the parties, the defendants, through their counsel, withdrew their opposition to plaintiff's motion and consented to the issuance of a preliminary injunction.

Defendant had filed a motion to dismiss for insufficient service (Doc. 10). In discussions between the Court and counsel for the parties, counsel for the defendants informed the Court that

all defendants except Superintendent Bordeaux had now been properly served and Superintendent Bordeaux accepted service for personal jurisdiction.

Based on the record herein,

IT IS ORDERED:

1. The motion (Doc. 5) for preliminary injunction against the defendants is granted.
2. The defendant will desist from continuing the suspension of the plaintiff from classes and activities at the Todd County Middle School based upon Ernest Doe's action of firing a rifle at a school building on October 15, 2005.
3. Plaintiff Ernest Doe shall be permitted to return to school on January 23, 2006.
4. As long as this order is in effect, defendants will not seek to suspend the plaintiff from attending regular classes at the school unless there is further disciplinary misconduct by the plaintiff as determined in a due process administrative hearing.
5. The defendants' motion (Doc. 10) to dismiss for insufficient service is denied.


Dated this 27th day of January, 2006.

BY THE COURT:

  
CHARLES B. KORNMANN  
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY:   
DEPUTY  
(SEAL)